

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA                                 }  
                                                      }  
Case No. 39576                            }  
\_\_\_\_\_  
                                                      }                         PARTIAL DECREE PURSUANT TO  
                                                      }                         I.R.C.P. 54(b) FOR  
                                                      }                         Water Right 82-12175

NAME AND ADDRESS:             UNITED STATES OF AMERICA  
                                  USDI BUREAU OF LAND MANAGEMENT  
                                  IDAHO STATE OFFICE  
                                  1387 S VINNELL WAY  
                                  BOISE, ID 83709-1657

SOURCE:                         SPRING     TRIBUTARY: WHITAKER CREEK

QUANTITY:                       0.02   CFS  
  
                                  The quantity of water under this right shall not exceed 13,000  
                                  gallons per day.

PRIORITY DATE:                 04/17/1926  
  
                                  \* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT.\*  
                                  THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW WITH AN  
                                  APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER  
                                  SIGNED THE SAME DATE AND KNOWN AS PUBLIC WATER RESERVE 107.

POINT OF DIVERSION:           T29N R08E S13                         NWNENE     Within Idaho County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY   |
|-------------------------------|----------------|----------------|------------|
|                               | Stockwater     | 01-01 TO 12-31 | 0.02   CFS |

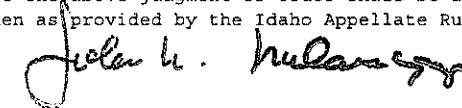
PLACE OF USE:                 Stockwater                                 Within Idaho County  
                                  T29N R08E S13                         NENE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a  
determination of historical beneficial use.  
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance  
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a  
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final  
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

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JUN 24 2005

DEPARTMENT OF  
WATER RESOURCES

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DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

) **ORDER OF PARTIAL DECREE**

) **FINDINGS OF FACT AND**  
) **CONCLUSIONS OF LAW**

Case No. 39576

) **FOR WATER RIGHTS: 82-10763 et al.**  
) **See attached exhibit A**

**I. PROCEDURAL HISTORY**

The United States filed the above water right claims on a "dual" basis, meaning the rights were claimed based on both a state-based beneficial use water right and as a Federal reserved water right based on Public Water Reserve (PWR) 107. The rights were reported to the Court in a *Director's Report* by the Idaho Department of Water Resources on January 20, 2005. No objections were filed to the *Director's Report*, and the time for objections has expired. Pursuant to I.C. 42-1411A(12), the Court held an evidentiary hearing on June 21, 2005. In conjunction with that hearing, the United States submitted affidavits that supported the federal basis for the rights and elected to receive the federal-based rights in lieu of the state-based rights. Mr. David Negri appeared for the United States. No one appeared opposing the rights.

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the file and record in this subcase, and the affidavits presented at the hearing on the matter, the Court makes the following findings of fact and conclusions of law:

1. Prior to April 17, 1926, no water rights had been established pursuant to state law for the use of the water from the subject water source for the above claims.

3. On April 17, 1926, President Coolidge executed Public Water Reserve 107, which withdrew the 40 acre tract of land upon which the subject water source for each claim is located from the public domain. The tract of land withdrawn for each claim is described as the "place of use" element on the attached *Partial Decree*.

4. The subject water source for each of the claims consists of a spring or water hole of the type contemplated by Public Water Reserve 107.

5. Contemporaneously with the withdrawal of the land, President Coolidge impliedly reserved enough water to fulfill the primary purpose of the land reservation for each claim.

6. The minimum amount of water necessary to fulfill the primary purpose of the land reservation is the amount set forth in the "quantity" element on the attached *Partial Decree* for each claim.

7. The United States has satisfied its burden under Idaho Code section 42-1411A(12) as to the nature and existence of the claimed federal reserve water right for each claim.

8. The elements of the federal reserved water right for each claim are set forth on the attached *Partial Decrees*.

### III. ORDER OF PARTIAL DECREE

Therefore, based on the file and record herein, IT IS ORDERED that the above-captioned water rights are hereby decreed as set forth in the attached *Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated June 22 2005 .

  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

|          |          |
|----------|----------|
| 82-10763 | 82-12177 |
| 82-10777 | 82-12178 |
| 82-10797 | 82-12179 |
| 82-12003 | 82-12180 |
| 82-12127 | 82-12181 |
| 82-12128 | 82-12182 |
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| 82-12174 |          |
| 82-12175 |          |
| 82-12176 |          |

(Subcase list: B82UNCONFD)  
6/22/05